

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1715.01
COMPLAINT INVESTIGATOR: Sandie Scudder
DATE OF COMPLAINT: March 21, 2001
DATE OF REPORT: April 27, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: May 11, 2001

COMPLAINT ISSUES:

Whether the Spencer-Owen Community Schools and the Forest Hills Special Education Cooperative violated:

- 511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, as it relates to the medical protocols—specifically staff training and implementation of the protocol.
- 511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record (TOR):
 - a. regularly monitored the implementation of the student's IEP; and
 - b. informed each teacher and service provider of his or her specific responsibilities related to implementing the IEP.
- 511 IAC 7-27-4(c) with regard to the school's alleged failure:
 - a. to convene a case conference committee (CCC) prior to revising (discontinuing) the IEP goals and objectives; and
 - b. to ensure the CCC considered strategies, including positive behavioral interventions and supports, to address a student's behavior that impedes the student's learning or the learning of others.
- 511 IAC 7-26-2(d) with regard to the school's alleged failure to ensure that professionals and paraprofessionals working with students with autism spectrum disorder received specialized inservice training in this area.

During the course of the investigation, an additional issue was identified, which is:

Whether the Spencer-Owen Community Schools and the Forest Hills Special Education Cooperative violated:

- 511 IAC 7-23-1(p) with regard to the school's alleged release of personally identifiable information about the student without the parent's consent.

The original deadline for this report was April 20, 2001. However, due to the need to obtain additional information, the report deadline was extended to April 27, 2001.

FINDINGS OF FACT:

1. The student (Student) is 14 years old and eligible for special education and related services as a student with a primary disability of severe mental disability and secondary disabilities of communication disorder and visual impairment.
2. The CCC Report/IEP dated August 28, 2000, indicates the Student has a number of medical needs and that the School nurse is to provide training to staff on these issues. Also included as part of the CCC Report/IEP is a "Seizure Protocol" that requires the School nurse to train three staff members on the protocol, as well as a protocol for dealing with the Student's hypoglycemia.
3. Documentation indicates that individuals working with the Student were trained by the School nurse in the following areas: seizure protocols, hypoglycemia protocols, and procedure for glucose testing. Two TAs received certification in the Automated External Defibrillation Program and Healthcare Providers Program. Training was also provided in Nonviolent Crisis Intervention.
4. The classroom teacher, who is the Student's teacher of record (TOR), maintains a staff check-off sheet that states how often training must occur. All initial and "refresher" training is provided by the School nurse. New staff are trained when they are hired.
5. The protocol for the hypoglycemia involves checking the Student's blood sugar level when symptoms of hypoglycemia are observed and taking specific action based on the Student's condition and blood sugar level. In non-emergency situations, the Student is to be given fruit juice, a soda, or three glucose tablets, and the Student's situation is to be monitored for further action as warranted.
6. On one occasion during the school year, the speech therapist observed the identified symptoms and took the Student to the nurse. The nurse found the Student's glucose level to be of a level that required intervention. The nurse told the speech therapist to return the Student to the classroom, provide the Student with a snack, and bring the Student to the nurse's office for a re-check of the glucose level before riding the bus home. The Student returned to the classroom and was provided a snack, but was not returned to the nurse's office for a re-check prior to getting on the bus to go home. When the nurse realized the Student had not returned for re-check, she went to the classroom and discovered the Student was already on the bus, so she was not able to re-check the Student's glucose level.
7. The TOR monitors the implementation of the Student's IEP by meetings with individuals working with the Student. The TOR discusses the IEP with the speech pathologist each week and with the occupational and physical therapists each month. The TOR discusses the IEP with the vision consultant during consultation visits. The TOR has daily contact with the teacher assistants. The TOR reviews the IEP quarterly when writing progress reports.
8. The IEP dated February 26, 2001, continues the recommendation from CCC meetings convened in August and December 2000 that a "texture/object schedule" will be used and that "the contextual cue should be paired with a verbal cue." This is also included as one of the instructional modifications to be used with the Student. The February 26, 2001, IEP also includes an annual goal of improving the Student's communication skills. One of the short-term instructional objectives for this goal is that the Student will use "a sign/signal to make requests."
9. The Complainant asserts that a decision not to use the object/texture schedule was made without convening a CCC. The speech therapist did not feel the object/texture schedule was working with the Student and wanted to try sign language. After discussing this issue with the classroom teacher and occupational therapist, the classroom teacher wrote the Complainant a note to advise

her of the speech therapist's plans. The parent understood this note to mean that the object/texture schedule was being discontinued. The object/texture schedule continues to be used throughout the day with the Student in various settings as a means for the Student to communicate.

10. Another of the short-term instructional objectives for the goal of improving communication skills in the IEP dated February 26, 2001, states that the Student will use a switch for making choices or to activate an item for cause and effect. The complainant asserts the Student used a yes/no switch in the classroom that was discontinued in place of signing. The classroom teacher states that the Student continues to use a voice output switch daily to make requests, participate in calendar group, in the library to give his name, and for ordering in a restaurant. The Student uses five different switches in the School environment.
11. The February 26, 2001, IEP states that the Student's behavior impedes the Student's learning or the learning of others. The CCC reviewed a "behavior support plan" developed by the Student's private behavior therapist, that could be implemented with the Student in the classroom, and concluded that the plan should be made part of the IEP. The behavior support plan identifies positive reinforcers and methods for helping the Student develop appropriate skills.
12. None of the CCC Reports/IEPs for August 2000, December 2000, and February 2001 identify autism spectrum disorder as a disability for the Student.
13. The complainant states the Student's progress report went home with another student in the Student's classroom. The parent of the student who took home the progress report called the Complainant, and related personal information from the progress report to the Complainant. The Director of Special Education states that report cards were accidentally placed on top of the Student's progress report. When the report cards were passed out, the last report card was attached to the Student's progress note. The progress note had been placed on the classroom teacher's desk to be completed and was not to be sent home.

CONCLUSIONS:

1. Findings of Fact #2, #3, #4, #5, and #6 indicate the Student's IEP included a protocol for handling the Student's hypoglycemia. Although staff were trained in the protocol as required, the protocol was not followed on one occasion during the school year. Therefore, a violation of 511 IAC 7-27-7(a) occurred with respect to implementing the protocol.
2. Findings of Fact #2, #3, #4, and #7 reflect that the Student's teacher of service is also the TOR. The TOR regularly meets with the staff responsible for providing services to the Student to ensure that staff are aware of individual responsibilities and to ensure the IEP is being implemented as written. Therefore, no violation of 511 IAC 7-27-7(b) or 511 IAC 7-17-72 occurred.
- 3a. Findings of Fact #8, #9, and #10 indicate that none of the annual goals or short-term instructional objectives of the Student's IEP were discontinued. Therefore, no violation of 511 IAC 7-27-4(c) occurred.
- 3b. Finding of Fact #11 establishes that the CCC considered strategies, including positive behavioral interventions, necessary to address the Student's behavior that impeded the Student's learning or that of others. These strategies are included in a "behavior support plan" to be implemented as part of the Student's IEP. Therefore, no violation of 511 IAC 7-27-4(c) is found.
4. Finding of Fact #12 indicates that the Student is not identified as a student with autism spectrum disorder; therefore, training in this area for the individuals working with the Student was not

necessary to meet his unique needs. Therefore, no violation of 511 IAC 7-26-2(d) occurred.

5. Finding of Fact #13 reflects that personally identifiable information pertaining to the Student was accidentally disclosed when the Student's progress report went home with another student in the same classroom. Therefore, a violation of 7-23-1(p) occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Spencer-Owen Community Schools and the Forrest Hills Special Education Cooperative shall:

1. Send a written reminder to staff working with the Student that each needs to ensure he or she understands the details of the protocols and the responsibility for ensuring that the protocols are followed in handling the Student's medical needs.
2. Send a written reminder to school staff that personally identifiable information about any student cannot be disclosed to unauthorized individuals without the parent's consent.

Copies of each of these reminders shall be submitted to the Division, along with a list of recipients, no later than May 11, 2001.

DATE REPORT COMPLETED: April 26, 2001